IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6774 of 2007()

(CRIME NO.379/07 OF KADAKKAL POLICE STATION)

PETITIONERS/ACCUSED 1 TO 3:

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1. **RAMADAS, AGED 26, S/O.LATE HARIDAS, BABU BHAVAN, THRIKKANNAPURAM, PULIPPARA PO, KADAKKAL.**
2. **LINEESH, S/O.THULASEEDHARAN, LOVELY BHAVAN OF DO. DO.**
3. **LITHIN, S/O.THULASEEDHARAN, VENNIYODU, DO. DO.**

BY ADV. SRI.R.T.PRADEEP

RESPONDENT: COMPLAINANT:

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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B.A.No. 6774 of 2007

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Dated this the 7th day of November, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 to 3. Altogether there are only three accused persons. They face allegations under the Kerala Abkari Act. They were allegedly found to keep in their possession 40 litres of arrack and implements for distillation on 7.9.07. When the police party, on receipt of discreet information, reached the scene of the crime, accused 1 to 3 (house owner - A1 and his brothers A2 and A3) allegedly ran away from the house. Neighbours confirmed the identity of the miscreants. Contemporaneous Seizure Mahazar and the FIR reveal the complicity of the petitioners. Investigation is in progress. The petitioners have not been arrested so far. They apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the allegations are totally false. The mother of A1 occupies the house. The house was let out to a marriage party, in connection with the marriage of a relative. The petitioners have no responsibility for the alleged seizure effected from the house.

They find coercive processes against them chasing them unnecessarily. They may be granted anticipatory bail, prays the learned counsel for the petitioners.

3. The learned Public Prosecutor opposes the application. The materials collected so far point to the complicity of the petitioners. The theory advanced by the petitioners at the moment is not to be accepted. There is no merit in this contention at all.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. The available indications point satisfactorily to the culpability of the petitioners. I shall carefully avoid any detailed discussions on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that I am unable to perceive any features suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the learned Magistrate or the investigating officer and seek regular bail in the normal and ordinary course, I am satisfied.

5. In the result, this petition is dismissed. Needless to

say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE